

# Order

Michigan Supreme Court  
Lansing, Michigan

May 27, 2008

Clifford W. Taylor,  
Chief Justice

135837

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

MICHAEL PAUL WHITMAN,  
Defendant-Appellant.

SC: 135837  
COA: 281518  
Genesee CC: 07-019851-FH;  
07-019867-FH

---

On order of the Court, the application for leave to appeal the January 7, 2008 order of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we VACATE the defendant's sentences and we REMAND these cases to the Genesee Circuit Court for resentencing. The reduction in the defendant's offense variable score resulting from the correction of the score for OV 9, which the prosecutor conceded should be zero points in both cases, reduces the defendant's minimum sentencing guidelines range to 78 to 130 months in Docket No. 07-019851-FH, and to 72 to 120 months in Docket No. 07-019867-FH. Moreover, the sentencing court's statements on the record in denying the defendant's postjudgment motion for resentencing do not clearly indicate whether the court would impose the same sentences regardless of any scoring error. Therefore, resentencing is required. MCL 769.34(10); *People v Francisco*, 474 Mich 82 (2006); *People v Lathrop*, 480 Mich 1036 (2008). In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.

We do not retain jurisdiction.



d0519

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 27, 2008

*Corbin R. Davis*

Clerk